

## **Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA	)	NO. 4:21-CR-09
	)	
	)	
VS.	)	Houston, Texas
	)	10:31 a.m.
	)	
ROBERT T. BROCKMAN	)	SEPTEMBER 13, 2021

\*\*\*\*\*

## ZOOM STATUS CONFERENCE

**BEFORE THE HONORABLE GEORGE C. HANKS, JR.**

**UNITED STATES DISTRICT JUDGE**

**VOLUME 1 OF 1**

APPEARANCES.

## 16 | FOR THE GOVERNMENT:

17 Mr. Corey J. Smith  
18 Mr. Lee F. Langston  
19 U.S. Department of Justice  
20 Tax Division  
21 150 M Street NE  
Room 2208  
Washington, DC 20002  
Tel: 202-514-9623  
Email: Corey.smith@usdoj.gov  
Email: Lee.f.langston@usdoj.gov

23                   Mr. Boris Bourget  
24                   U.S. Department of Justice  
25                   Tax Division  
                  150 M. St. NE  
                  Washington, DC 20002  
                  Tel: 202-532-3624  
                  Email: Boris.bourget@usdoj.gov

KATHY MILLER, RMR, CRR - kathy@miller-reporting.com

1 and, you know, this has been briefed, and the Fifth Circuit  
2 law is clear. A party or a nonparty, you know, the target  
3 of a subpoena cannot unilaterally decide that they are  
4 claiming the Fifth Amendment and disregard the subpoena  
5 entirely.

11:44:25

6 THE COURT: I have to stop you there. I have  
7 got that argument. I mean, I respect Mr. MacDougall's  
8 argument, but the issue is, if you're going to plead the  
9 Fifth Amendment, you have to do it. You can't just say you  
10 are going to do it and then not show up. The law is pretty  
11 clear there.

11:44:36

12 Mr. MacDougall's argument, of course, is  
13 that this is just harassment. There is really no reason to  
14 have him come down and sit by the courthouse for five hours  
15 waiting to testify, but there are ways of dealing with  
16 that. I mean, the bottom line in the Fifth Circuit law is  
17 if you are going to plead the Fifth Amendment, you don't  
18 get a pass and say, I don't have to show up because I am  
19 going to plead the Fifth. You are going to have to come  
20 down to the courthouse and plead the Fifth Amendment.

11:45:03

21 If there is problems with inconvenience,  
22 then we deal with that by having him go first, or  
23 rearranging the court schedule so that he is only down  
24 there for a minimal amount of time. So that argument we  
25 don't need to address. I understand it. Respectfully, I

11:45:17

1 just disagree with Mr. Brockman's counsel's position.

2 Well, Dr. Yudofsky's counsel's position on that. So, you  
3 can move on to the next topic.

4 MR. BOURGET: Okay. And I will, Your Honor.

11:45:33 5 And just to add very quickly with what Mr. MacDougall  
6 discussed about Dr. Yudofsky having to be at the courthouse  
7 for four to five days, there has never been any discussion  
8 about us scheduling, and sliding Dr. Yudofsky to, you know,  
9 a certain day or an afternoon, and that's something we are  
11:45:49 10 happy to discuss. But we have never at any point  
11 communicated that Dr. Yudofsky would have to show up on the  
12 first day and potentially stay, you know, for four or five  
13 days, you know, however long the hearing lasts.

14 THE COURT: I wouldn't let that happen. I  
11:46:05 15 mean, I wouldn't let somebody just sit out in the hall. We  
16 can coordinate schedules. That is not a problem.

17 MR. BOURGET: I understand. So it sounds like  
18 the Court understands the part about Dr. Yudofsky having to  
19 come testify. And so I will just reemphasize on -- in  
11:46:21 20 terms of the production, yes, the materials that we are  
21 seeking are directly related to the issue for the  
22 competency hearing.

23 Mr. Brockman has put his ability to write  
24 e-mails at issue, and Dr. Yudofsky is in this unique  
11:46:36 25 position where he has communicated with Mr. Brockman about